



# UNITED STATES PATENT AND TRADEMARK OFFICE

A

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,712	07/07/2003	Thomas P. Chojnacki	103524.0515869	7930

7590

03/09/2005

FROST BROWN TODD LLC  
2200 PNC Center  
201 E. Fifth Street  
Cincinnati, OH 45202-4182

EXAMINER
----------

CEGIELNIK, URSZULA M

ART UNIT	PAPER NUMBER
----------	--------------

3714

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/614,712	Applicant(s) CHOJNACKI ET AL. <span style="float: right;">ED</span>	
	Examiner Urszula M. Cegielnik	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-6, 8-10 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-6, 8, 9 and 13 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13, 2-6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neilson in view of Daravina.

Neilson discloses a target layer (13) comprising a magnetic material (col. 2, line 7), the target layer (13) having goals *(the goals being the areas of the magnetic surface 13 that are lithographed or marked indicating a point value)* formed therein wherein at least one of the goals *(the goals being the areas of the magnetic surface 13 that are lithographed or marked indicating a point value)* has a magnetic polarity *(the goals being marked or lithographed on the magnetic surface 13 have a magnetic polarity for adhering the ball to the marked goal area)*; a ball (22) a ball made of polymer foam (an elastopolymer (plastic, col. 2, lines 20-21; a rare earth magnet (23) made of AlNiCo.(col. 2, lines 56-57).

Neilson does not disclose the ball having a magnet that is spherical.

It would have obvious to one having ordinary skill in the art to provide a magnet that is spherical as taught by Daravina, since such a modification would allow the ball to have a smoother and even magnetic adhesion to the target layer.

Art Unit: 3714

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 13 above, and further in view of Gittens et al.

Neilson, as modified by Daravina, does not disclose the rare earth magnet being NdFeB or SmCo.

Gittens et al. teach a rare earth magnet formed of NdFeB or SmCo (col. 4, lines 22-32).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the rare earth magnet formed of NdFeB or SmCo as taught by Gittens et al. since such a modification would provide an alternative rare earth magnet.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 13 above, and further in view of Henderson.

Neilson, as modified by Daravina, lacks the shell formed from two hemispherical portions.

Henderson teaches forming a shell (see Figure 3, for example) from two hemispherical portions (15,16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the shell from two hemispherical portions as taught by Henderson, since Henderson states at col. 1, lines 65-72 through col. 2, lines 1-2 that such a modification would reduce costs of producing the ball by molding all components together at the same time to reduce manufacturing costs.

Art Unit: 3714

***Allowable Subject Matter***

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM - 2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 571-272-4419.

**The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for both regular and After Final communications.**

Urszula M. Cegielnik  
Assistant Examiner  
Art Unit 3714

  
DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700